IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.Rev.Pet.No. 3846 of 2006(A)

AGAINST THE ORDER DATED 16/10/2006 IN CRL.MP.306/2006 IN CC50/2005 of ENQUIRY COMMR. & SPL. JUDGE, TRIVANDRUM

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REVN. PETITIONER: PETITIONER/ACCUSED

HARI KUMAR, S/O.SUKUMARA PILLAI,
JALAJA MANDIRAM, NEDUMANGADU,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.S.BABU GIREESAN

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.3846 of 2006

Dated this the 11th day of July, 2007

O R D E R

The revision petitioner is the first accused in C.C.No.50/05 with respect to the offences under Sections 468, 471 and 120B of IPC and Section 13(2) read with Section 13(1) (d) of Prevention of Corruption Act. This revision petition is filed seeking to set aside the order of the court below framing charges against him. The discharge application filed was dismissed by the Special Judge.

2. It is the contention of the revision petitioner that right now he alone is the accused and that the case against A2, an official, was quashed by this court as per Annexure A order in Crl.M.C.No.5614/2003 on the ground of delay in completing the investigation and the third accused stands acquitted as per the order of the Special Judge in C.C.No.45/99. Hence, according to him the offences alleged under Section 120B read with 13(1) d and 13(2) of the P.C. Act will not lie.

3. The prosecution case is that the accused/revision

petitioner in pursuance of the criminal conspiracy with the rest of the accused managed to cheat the Housing Board and availed 3rd and 4th instalments of the housing loan without making any constructions and by obtaining false stage certificates. It is specifically noted by the court below that the first accused/ revision petitioner was absconding and it is only on account of the above fact that he could not be tried along with the rest of the accused. The fact that the case against A2 stands quashed and that A3 has been acquitted is not a reason to discharge the accused as the allegations are yet to be disproved. I find that the contention has no merit and the revision petition is dismissed. The Special Judge is directed to dispose of the matter at the earliest.

K.R.UDAYABHANU,
JUDGE

csl